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Transmittal Number: 30930833
Date Processed: 03/05/2025

Notice of Service of Process

Primary Contact: Jessica Venckus
Ace Hardware Corporation
2915 Jorie Blvd
Oak Brook, IL 60523-2126

Electronic copy provided to: Sheri Vrtis
Kerilyn Johnson
Lindsey Hegarty
Kelly Muenzing
Bill Christou
Claire Weinstein

Entity: Ace Hardware Corporation
Entity ID Number 1561391

Entity Served: Ace Hardware Corporation

Title of Action: Michael Sandoval vs. Ace Hardware Corporation

Matter Name/ID: Michael Sandoval vs. Ace Hardware Corporation (16985852)

Document(s) Type: Summons/Complaint

Nature of Action: Discrimination

Court/Agency: San Bernardino County Superior Court, CA

Case/Reference No: CIV SB 2502625

Jurisdiction Served: California

Date Served on CSC: 03/04/2025

Answer or Appearance Due: 30 Days

Originally Served On: CSC

How Served: Personal Service

Sender Information: Manning Law, APC
949-200-8755

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: ACE HARDWARE CORPORATION, a (AVISO AL DEMANDADO): Delaware corporation; and DOES 1-10, inclusive.

YOU ARE BEING SUED BY PLAINTIFF: MICHAEL SANDOVAL, an individual (LO ESTÁ DEMANDANDO EL DEMANDANTE):

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

FEB 26 2025

BY 
Ariel Cervantez DEPUTY

NOTICE: You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/seh/help), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/seh/help), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO: Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lee la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted puede usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.suerte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumple con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.suerte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desachar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Superior Court of California, County of San Bernardino
247 West Third Street, San Bernardino, CA 92415

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Manning Law, APC
26100 Towne Centre Drive, Foothill Ranch, CA 92610

DATE:
(Fecha) **FEB 26 2025** Clerk, by
(Secretario)  Ariel Cervantez

949-200-8755 Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify): *Ace Hardware Corporation*
under: CCP 416.10 (corporation) CCP 416.80 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- by personal delivery on (date):



SUMMONS

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

Michael Sandoval

CASE NO.: **CIV SB 2502625**

vs.

CERTIFICATE OF ASSIGNMENT

Ace Hardware Corporation, et al.

BY FAX

A civil action or proceeding presented for filing must be accompanied by this Certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the **SAN BERNARDINO** District of the Superior Court under Rule 404 of this court for the checked reason:

General

X

Nature of Action

- 1. Adoption
- 2. Conservator
- 3. Contract
- 4. Equity
- 5. Eminent Domain
- 6. Family Law
- 7. Guardianship
- 8. Harassment
- 9. Mandate
- 10. Name Change
- 11. Personal Injury
- 12. Personal Property
- 13. Probate

- 14. Prohibition
- 15. Review
- 16. Title to Real Property
- 17. Transferred Action
- 18. Unlawful Detainer
- 19. Domestic Violence
- 20. Other

- 21. THIS FILING WOULD

Collection

Ground

- Petitioner resides within the district
- Petitioner or conservatee resides within the district.
- Performance in the district is expressly provided for.
- The cause of action arose within the district.
- The property is located within the district.
- Plaintiff, defendant, petitioner or respondent resides within the district.
- Petitioner or ward resides within the district or has property within the district.
- Plaintiff, defendant, petitioner or respondent resides within the district.
- The defendant functions wholly within the district.
- The petitioner resides within the district.
- The injury occurred within the district.
- The property is located within the district.
- Decedent resided or resides within the district or had property within the district.
- The defendant functions wholly within the district.
- The defendant functions wholly within the district.
- The property is located within the district.
- The lower court is located within the district.
- The property is located within the district.
- The petitioner, defendant, plaintiff or respondent resides within the district.

NORMALLY FALL WITHIN JURISDICTION OF SUPERIOR COURT

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designed district is:

NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR Ace Hardware HESPERIA		17200 Main St. ADDRESS
CITY		CA STATE
		92345 ZIP CODE

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed on 01/08/2025 at Manning Law, APC, 26100 Towne Centre Drive, Foothill Ranch, 92610, California



CERTIFICATE OF ASSIGNMENT



**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN BERNARDINO**
San Bernardino District
247 West 3rd St
San Bernardino CA 92415
www.sb-court.org
909-708-8678

Sandoval -v- Ace Hardware Corporation et al

NOTICE OF TRIAL SETTING CONFERENCE and NOTICE OF CASE ASSIGNMENT	Case Number
	CIVSB2502625

Manning Law, APC
26100 Towne Centre Drive
Foothill Ranch CA 92610

This case has been assigned to: Carlos Cabrerain Department S24 - SBJC for all purposes.

Notice is hereby given that the above-entitled case has been set for Trial Setting Conference on:

Hearing Date: 8/26/2025 at 9:00 AM in Department S24 - SBJC

Date: 2/26/2025

By:

Ariel Cervantez, Deputy Clerk

CERTIFICATE OF SERVICE

I am a Deputy Clerk of the Superior Court for the County of San Bernardino at the above-listed address. I am not a party to this action and on the date and place shown below, I served a copy of the above-listed notice by:

Enclosed in a sealed envelope mailed to the interested party addressed above for collection and mailing this date, following standard Court practices.

Enclosed in a sealed envelope, first class postage prepaid in the U.S. mail at the location shown above, mailed to the interested party and addressed as shown above or as shown on the attached listing.

A copy of this notice was given to the filing party at the counter.

A copy of this notice was placed in the bin located at this office and identified as the location for the above law firm's collection of file-stamped documents.

Date of Mailing: 2/26/2025

I declare under penalty of perjury that the forgoing is true and correct. Executed on 2/26/2025 at San Bernardino, CA.

By:

Ariel Cervantez, Deputy Clerk

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Joseph R. Manning, Jr. SBN: 223381 Manning Law, APC 26100 Towne Centre Drive, Foothill Ranch, CA 92610 TELEPHONE NO. 949-200-8755 FAX NO. 866-843-8308		FOR COURT USE ONLY												
ATTORNEY FOR (Name): Michael Sandoval SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Bernardino STREET ADDRESS: 247 West Third Street MAILING ADDRESS: 247 West Third Street CITY AND ZIP CODE: San Bernardino, Ca 92415 BRANCH NAME: CIVIL DIVISION		F I L E D SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO SAN BERNARDINO DISTRICT JAN 24 2025 BY <i>Ariel Cervantez</i> DEPUTY Case Number: CIVSB 2502625 Judge: DEPT: BY FAX												
CASE NAME: Michael Sandoval v Ace Hardware Corporation, et al.														
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited <input type="checkbox"/> Limited (Amount demanded demanded exceeds \$25,000) (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)												
<i>Items 1-6 below must be completed (see instructions on page 2).</i>														
<p>1. Check one box below for the case type that best describes this case:</p> <table border="0"> <tr> <td style="vertical-align: top;"> Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (48) </td> <td style="vertical-align: top;"> Contract <input type="checkbox"/> Breach of contract/warranty (96) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) </td> <td style="vertical-align: top;"> Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) </td> </tr> <tr> <td style="vertical-align: top;"> Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) </td> <td style="vertical-align: top;"> Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (28) </td> <td style="vertical-align: top;"> Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) </td> </tr> <tr> <td style="vertical-align: top;"> Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) </td> <td style="vertical-align: top;"> Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) </td> <td style="vertical-align: top;"> Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) </td> </tr> <tr> <td style="vertical-align: top;"> Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15) </td> <td style="vertical-align: top;"> Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39) </td> <td style="vertical-align: top;"> Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43) </td> </tr> </table>			Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (48)	Contract <input type="checkbox"/> Breach of contract/warranty (96) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)	Provisionally Complex Civil Litigation (Cal. 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<p>2. This case <input type="checkbox"/> is <input checked="" type="checkbox"/> is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:</p> <p>a. <input type="checkbox"/> Large number of separately represented parties d. <input type="checkbox"/> Large number of witnesses</p> <p>b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court</p> <p>c. <input type="checkbox"/> Substantial amount of documentary evidence f. <input type="checkbox"/> Substantial postjudgment judicial supervision</p>														
<p>3. Remedies sought (check all that apply): a. <input checked="" type="checkbox"/> monetary b. <input checked="" type="checkbox"/> nonmonetary; declaratory or injunctive relief c. <input type="checkbox"/> punitive</p>														
<p>4. Number of causes of action (specify): 1; ONE</p>														
<p>5. This case <input type="checkbox"/> is <input checked="" type="checkbox"/> is not a class action suit.</p>														
<p>6. If there are any known related cases, file and serve a notice of related case. (You may use Form 1.)</p>														

Date: 01/08/2025

Joseph R. Manning, Jr.

(TYPE OR PRINT NAME)

(SIGNATURE OF PAP) *JRM/JR***NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collection case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

Auto Tort

Auto (22)–Personal Injury/Property

Damage/Wrongful Death

Uninsured Motorist (48) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)

Asbestos-Property Damage

Asbestos Personal Injury/ Wrongful Death

Product Liability (*not asbestos or toxic/environmental*) (24)

Medical Malpractice (45)

Medical Malpractice—

Physicians & Surgeons

Other Professional Health Care

Malpractice

Other PI/PD/WD (23)

Premises Liability (*e.g., slip and fall*)Intentional Bodily Injury/PD/WD (*e.g., assault, vandalism*)

Intentional Infliction of

Emotional Distress

Negligent Infliction of

Emotional Distress

Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)

Civil Rights (*e.g., discrimination, false arrest*) (*not civil harassment*) (08)Defamation (*e.g., slander, libel*) (13)

Fraud (16)

Intellectual Property (19)

Professional Negligence (25)

Legal Malpractice

Other Professional Malpractice (*not medical or legal*)

Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)

Other Employment (15)

CASE TYPES AND EXAMPLES

Contract

Breach of Contract/Warranty (08)

Breach of Rental/Lease

Contract (*not unlawful detainer or wrongful eviction*)

Contract/Warranty Breach–Seller

Plaintiff (*not fraud or negligence*)

Negligent Breach of Contract/

Warranty

Other Breach of Contract/Warranty

Collections (*e.g., money owed, open book accounts*) (09)

Collection Case–Seller Plaintiff

Other Promissory Note/Collections Case

Insurance Coverage (*not provisionally complex*) (18)

Auto Subrogation

Other Coverage

Other Contract (37)

Contractual Fraud

Other Contract Dispute

Real Property

Eminent Domain/Inverse

Condemnation (14)

Wrongful Eviction (33)

Other Real Property (*e.g., quiet title*) (28)

Writ of Possession of Real Property

Mortgage Foreclosure

Quiet Title

Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)

Residential (32)

Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)

Petition Re: Arbitration Award (11)

Writ of Mandate (02)

Writ—Administrative Mandamus

Writ—Mandamus on Limited Court

Case Matter

Writ—Other Limited Court Case

Review

Other Judicial Review (39)

Review of Health Officer Order

Notice of Appeal—Labor

Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)

Construction Defect (10)

Claims Involving Mass Tort (40)

Securities Litigation (28)

Environmental/Toxic Tort (30)

Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)

Abstract of Judgment (Out of County)

Confession of Judgment (*non-domestic relations*)

Sister State Judgment

Administrative Agency Award (*not unpaid taxes*)

Petition/Certification of Entry of Judgment on Unpaid Taxes

Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)

Other Complaint (*not specified above*) (42)

Declaratory Relief Only

Injunctive Relief Only (*non-harassment*)

Mechanics Lien

Other Commercial Complaint Case (*not tort/non-complex*)Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)

Other Petition (*not specified above*) (43)

Civil Harassment

Workplace Violence

Elder/Dependent Adult Abuse

Election Contest

Petition for Name Change

Petition for Relief From Late Claim

Other Civil Petition

1 Joseph R. Manning, Jr., Esq. (State Bar No. 223381)
 2 **MANNING LAW, APC**
 3 26100 Towne Centre Drive
 4 Foothill Ranch, CA 92610
 5 Office: (349) 200-8755
 6 Fax: (360) 840-8306
 7 DisabilityRights@manninglawoffice.com
 8 Attorney for Plaintiff Michael Sandoval

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF SAN BERNARDINO
 SAN BERNARDINO DISTRICT

JAN 24 2025
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BY  DEPUTY
 Ariel Cervantez

6 SUPERIOR COURT OF CALIFORNIA

7 IN AND FOR THE COUNTY OF SAN BERNARDINO

8 MICHAEL SANDOVAL, an individual,

9 Plaintiff,

10 v.

11 ACE HARDWARE CORPORATION, a
 12 Delaware corporation; and DOES 1-10,
 13 inclusive,

14 Defendants.

Case No.: **CIV SB 2502625**

Complaint For Damages And Injunctive Relief
 For:

1. Violations of the Americans with
 Disabilities Act
 (42 U.S.C. § 12101, *et seq.*)
2. Violations of the Unruh Civil Rights Act
 (Cal. Civ. Code § 51, *et seq.*)

BY FAX

19 Plaintiff MICHAEL SANDOVAL ("Plaintiff") alleges the following upon information
 20 and belief based upon investigation of counsel, except as to Plaintiff's own acts, which
 21 Plaintiff alleges upon personal knowledge:

INTRODUCTION

22 1. Plaintiff is a visually-impaired and legally blind person who requires screen-
 23 reading software ("SRS") to read website content using a computer. Plaintiff uses the terms
 24 "blind" or "visually-impaired" to refer to all people with visual impairments who meet the
 25 legal definition of blindness in that they have a visual acuity with correction of less than or
 26 equal to 20 x 200. Some blind people who meet this definition have limited vision. Others

COMPLAINT

1 have no vision.

2 2. Plaintiff brings this civil rights action against ACE HARDWARE
3 CORPORATION, a Delaware corporation, ("Defendant") for its failure to design, construct,
4 maintain, and operate its website (hereinafter the "Website" or "Defendant's Website" which
5 shall refer to www.acehardware.com, and any other website operated by or controlled by
6 Defendant as well as any third party content which is located on or used in connection with
7 www.acehardware.com and any other website operated by or controlled by Defendant, for the
8 purposes described herein) to be fully accessible to and independently usable by Plaintiff and
9 other blind or visually-impaired people.

10 3. Defendant's Website denies Plaintiff and other legally blind persons full and
11 equal access to the Website and therefore to its products and services offered thereby and in
12 conjunction with its brick-and-mortar location(s) in violation of Plaintiff's rights under the
13 Americans with Disabilities Act (the "ADA") and California's Unruh Civil Rights Act (the
14 "UCRA").

15 4. Under the ADA, it is an act of discrimination to fail to ensure that the
16 privileges, advantages, accommodations, facilities, goods and services of any place of public
17 accommodation is offered on a full and equal basis by anyone who owns, leases, or operates a
18 place of public accommodation. See: 42 U.S.C. § 12182(a). Discrimination is defined, inter
19 alia, as follows: "A failure to make reasonable modifications in policies, practices, or
20 procedures, when such modifications are necessary to afford goods, services, facilities,
21 privileges, advantages, or accommodations to individuals with disabilities, unless the
22 accommodation would work a fundamental alteration of those services and facilities. 42
23 U.S.C. § 12182(b)(2)(A)(ii)."

24 5. The California Legislature provided a clear and statewide mandate for the
25 elimination of discrimination against individuals with disabilities when it enacted the Unruh
26 Civil Rights Act, Cal. Civ. Code § 51, *et seq.* Discrimination sought to be eliminated by the
27 UCRA includes barriers to full integration, independent living, and equal opportunity for
28 individuals with disabilities, which then necessarily includes barriers created by websites and

other places of public accommodation that are inaccessible to blind and visually-impaired individuals.

6. Because Defendant's Website is not equally, independently, or fully accessible to blind and visually-impaired consumers in violation of the ADA and the UCRA, Plaintiff seeks a permanent injunction to cause a change in Defendant's corporate policies, practices, and procedures so that Defendant's Website will become and remain accessible to blind and visually-impaired consumers who require the use of SRS to access the Website.

JURISDICTION AND VENUE

7. Defendant conducted and continues to conduct substantial business in the State of California, County of San Bernardino, and Defendant's offending Website is available throughout California.

8. Defendant conducts substantial business in San Bernardino County.

9. A substantial portion of the conduct complained of herein occurred in this District.

PARTIES

10. Plaintiff, at all times relevant and as alleged herein, is a resident of California, County of San Bernardino. Plaintiff is legally blind and cannot use a computer without the assistance of SRS. However, Plaintiff is a proficient user of SRS and uses it to access the internet. Plaintiff has visited the Website on separate occasions using SRS. During Plaintiff's separate visits to Defendant's Website, Plaintiff encountered multiple access barriers which denied Plaintiff full and equal access to the facilities, goods, and services offered to the public and made available to the public on Defendant's Website. Due to the widespread access barriers Plaintiff encountered on Defendant's Website, Plaintiff has been deterred obtaining full and equal access to the Website.

11. Plaintiff did not encounter, nor does he in any way base his claims alleged herein, upon the presence of any physical or architectural barrier in any public place of accommodation.

12. Plaintiff wants to avail himself of Defendant's goods and services as offered

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1 on Defendant's Website, including the service that is the Website itself.

2 13. Plaintiff also evaluated the Website for full and equal access to Plaintiff and
3 other legally blind persons.

4 14. Plaintiff is also a civil rights advocate for the disabled to determine compliance
5 with the ADA.

6 15. Plaintiff has filed multiple lawsuits against various operators of commercial
7 websites as part of Plaintiffs advocacy work on behalf of the civil rights of visually-impaired
8 persons.

9 16. Plaintiff intends to continue to engage in such advocacy work into the
10 foreseeable future to ensure that Defendant's commercial Website and others are fully and
11 equally enjoyable to and usable by visually-impaired persons, including himself.

12 17. Plaintiff is being deterred from patronizing the Defendant's Website and/or
13 brick-and-mortar locations on particular occasions.

14 18. Plaintiff has standing to sue Defendant under the UCRA. As the California
15 Supreme Court explained in *Angelucci v. Century Supper Club*, 41 Cal.4th 160 (2007), "an
16 individual plaintiff has standing under the [Unruh Civil Rights] Act if he or she has been the
17 victim of the defendant's discriminatory act." *Id.* at 175.

18 19. Plaintiff is informed and believes, and thereon alleges Defendant is a Delaware
19 corporation, and has its principal place of business in Oak Brook, Illinois.

20 20. Defendant operates brick-and-mortar locations in San Bernardino County,
21 California. Defendant's brick-and-mortar locations constitute places of public accommodation.

22 21. Defendant's Website provides consumers with access to an array of goods,
23 services, and information related to Defendant's brick-and-mortar locations including product
24 descriptions, online ordering, video content, online chat options, contact options, location
25 information, career opportunities, pricing details, account sign-up, loyalty program sign-up,
26 and/or many other benefits.

27 22. The true names and capacities of the Defendants sued herein as DOES 1
28 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues such Defendants

1 by fictitious names.

2 23. Each of the Defendants designated herein as a DOE is legally responsible for
3 the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend this Complaint to
4 reflect the true names and capacities of the DOE Defendants when such identities become
5 known.

6 24. At all relevant times as alleged herein, each and every Defendant was acting as
7 an agent and/or employee of each of the other Defendants and was acting within the course
8 and/or scope of said agency and/or employment with the full knowledge and consent of each
9 of the Defendants.

10 25. Each of the acts and/or omissions complained of herein were alleged and made
11 known to, and ratified by, each of the other Defendants (Defendant, together with any DOE
12 Defendants, are collectively referred to hereinafter as "Defendant" or "Defendants").

13 **VISUALLY-IMPAIRED PERSONS' ACCESS TO THE INTERNET**

14 26. The Internet has become a significant source of information, a portal, and a tool
15 for conducting business, doing everyday activities such as shopping, learning, banking,
16 researching, as well as many other activities for sighted, blind and visually-impaired persons
17 alike.

18 27. As an essential tool for many Americans, when accessible, the Internet provides
19 individuals with disabilities great independence.

20 28. Blind persons are able to access websites using keyboards in conjunction with
21 SRS that vocalizes the visual information found on a computer screen. This technology is
22 known as screen-reading software.

23 29. Except for legally blind individuals whose residual vision allows them to use
24 magnification, screen-reading software is currently the only method a blind person can fully
25 and independently access the internet.

26 30. Blind and visually-impaired users of Windows computers and devices have
27 several screen-reading software programs available to them.

28 31. Job Access With Speech, otherwise known as "JAWS," is currently the most

1 popular, separately SRS available for Windows.

2 32. For SRS to function, the information on a website must be capable of being
3 rendered into text. If the website content is not capable of being rendered into text, the blind
4 or visually-impaired user is unable to access the same content available to sighted users using
5 their keyboards because they are unable to see the screen or manipulate a mouse.

6 33. SRS is currently the only method a blind or visually-impaired person may
7 independently access the internet, websites, and other digital content.

8 34. If the website content is not capable of being rendered into text, the blind or
9 visually-impaired user is unable to access and navigate the same content on a website or
10 mobile app that is available to sighted users.

11 35. There are well-established industry adopted guidelines for making websites
12 accessible to visually-impaired people who require screen-reading software programs. These
13 guidelines have existed for at least several years and are successfully followed by large
14 business entities who want to ensure their websites are accessible to all persons.

15 36. The Web Accessibility Initiative (“WAI”), an initiative of the World Wide Web
16 Consortium developed guidelines on website accessibility.

17 37. Through Section 508 of the Rehabilitation Act, the federal government also
18 promulgated website accessibility standards. These guidelines, easily found on the Internet,
19 recommend several basic components for making websites accessible, including, but not
20 limited to: adding invisible Alt-text to graphics; ensuring all functions can be performed using
21 a keyboard and not just a mouse; ensuring that image maps are accessible; and adding
22 headings so blind and visually-impaired people can navigate websites and mobile applications
23 just as sighted people do. Without these basic components, websites and mobile applications
24 are inaccessible to a blind person using SRS.

25 38. Common barriers encountered by blind and visually-impaired persons include,
26 but are not limited to, the following:

27 a. A text equivalent for every non-text element is not provided;
28 b. Title frames with text are not provided for identification and navigation;

- c. Equivalent text is not provided when using scripts;
- d. Forms with the same information and functionality as for sighted persons are not provided;
- e. Information about the meaning and structure of content is not conveyed by more than the visual presentation of content;
- f. Text cannot be resized without assistive technology up to 200 percent without loss of content or functionality;
- g. If the content enforces a time limit, the user is not able to extend, adjust, or disable it;
- h. Web pages do not have titles that describe the topic or purpose;
- i. The purpose of each link cannot be determined from the link text alone or from the link text and its programmatically determined link context;
- j. One or more keyboard operable user interface lacks a mode of operation where the keyboard focus indicator is discernible;
- k. The default human language of each web page cannot be programmatically determined;
- l. When a component receives focus, it may initiate a change in context;
- m. Changing the setting of a user interface component may automatically cause a change of context where the user has not been advised before using the component;
- n. Labels or instructions are not provided when content requires user input;
- o. In content which is implemented by using markup languages, elements do not have complete start and end tags, elements are not nested according to their specifications, elements may contain duplicate attributes and/or any IDs are not unique;
- p. Inaccessible Portable Document Format (PDFs); and,
- q. The name and role of all User Interface elements cannot be programmatically determined; items that can be set by the user cannot

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be programmatically set; and/or notification of changes to these items is not available to user agents, including screen-reading software.

39. Binding California law recognizes website accessibility claims under the ADA and the UCRA.

5 40. In September 2019, California Court of Appeal in *Thurston v. Midvale Corp.*,
6 39 Cal. App. 5th 634 (2019), held that businesses are accountable for the inaccessibility of
7 websites and for content of third parties with whom they contract to provide services to
8 customers (map programs, reservations, sales etc.), that the trial court did not violate
9 defendant's due process rights by imposing WCAG 2.0 AA compliance standards for
10 injunctive relief, that the injunction was not overbroad or uncertain, and that plaintiff had
11 standing to obtain injunction under the Unruh Act because she visited the website and
12 encountered barriers to access. In June 2020, California Court of Appeal in *Martinez v. San*
13 *Diego County Credit Union*, 50 Cal.App.5th 1048 (2020), also held that there is a sufficient
14 nexus between a website and place of public accommodation if the website permits the
15 customer to research and prepare before going to the physical facility, including to make
16 informed decisions about its products and services.

17 41. An abundance of other courts throughout California and the country have also
18 held that commercial websites and mobile applications must be accessible under the ADA and
19 UCRA.

20 42. Each of Defendant's violations of the ADA constitutes a violation of the
21 UCRA. Cal. Civ. Code § 51(f).

FACTUAL BACKGROUND

43. Defendant offers its commercial Website to the public.

24 44. The Website offers features which should allow all consumers to access the
25 goods and services offered in connection with its brick-and-mortar locations. The Website
26 itself is also a service offered to the public.

27 45. The Website provides consumers with access to an array of goods, services, and
28 information related to Defendant's brick-and-mortar locations which include, but are not

1 limited to, the following: product descriptions, online ordering, video content, online chat
2 options, contact options, location information, career opportunities, pricing details, account
3 sign-up, loyalty program sign-up, and/or many other benefits.

4 46. Based on information and belief, it is Defendant's policy and practice to deny
5 Plaintiff, along with other blind or visually-impaired users, access to Defendant's Website, and
6 to therefore specifically deny the goods and services that are offered and integrated with
7 Defendant's brick-and-mortar locations and otherwise.

8 47. Due to Defendant's failure and refusal to remove access barriers to its Website,
9 Plaintiff and visually-impaired persons have been and are still being denied equal access to
10 Defendant's brick-and-mortar locations and the numerous goods, services, privileges, and
11 benefits offered to the public through Defendant's Website, including the Website itself.

12 48. Plaintiff cannot use a computer without the assistance of SRS.

13 49. Plaintiff is a proficient user of SRS and uses it to access the Internet.

14 50. Plaintiff's SRS is the current version and is up to date.

15 51. Plaintiff has visited Defendant's Website on separate occasions using SRS.

16 52. While attempting to navigate the Website, Plaintiff encountered multiple
17 accessibility barriers for blind or visually-impaired people that include, but are not limited to:

- 18 a. The home page has graphics, links, and buttons that are not labeled or
19 are incorrectly labeled, or lack alternative text ("Alt-text"). Alt-text is
20 invisible code embedded beneath a graphical image on a website. Web
21 accessibility requires that Alt-text be coded with each picture so that
22 screen-reading software can speak the Alt-text where a sighted user sees
23 pictures. Alt-text does not change the visual presentation, but instead a
24 text box shows when the cursor moves over the picture. The lack of
25 Alt-text on these graphics prevents screen-readers from accurately
26 vocalizing a description of the graphics;
- 27 b. Plaintiff encountered multiple unlabeled or mislabeled buttons and
28 links. Without descriptive alternate text, Plaintiffs, and other screen-

1 reader users, have no way to discern the purpose or function of the
2 button or link;

3 c. Plaintiff encountered multiple pages containing insufficient navigational
4 headings requiring Plaintiff to expend substantial additional time to
5 access information;

6 d. Plaintiff encountered an inaccessible slideshow when attempting to
7 access the Website requiring Plaintiff to expend substantial additional
8 time to access information;

9 e. Plaintiff was unable to browse products because product links and
10 descriptions were inaccessible to SRS; and,

11 f. Plaintiff was unable to place an order for pick up because of an
12 inaccessible order system.

13 53. Due to the unlabeled buttons, lack of Alt-text, the structure of the headings and
14 Website, cursor traps, and other barriers, Plaintiff was unable to fully and independently access
15 the Website when visiting for the dual purpose of confirming compliance with the UCRA and
16 ADA and to browse products and place an order for pick up at the nearest brick-and-mortar
17 location.

18 54. Plaintiff intended to place an order for home improvement products for pick up
19 at Defendant's brick-and-mortar location in Hesperia, California. Due to the inaccessibility of
20 product descriptions and ordering system, Plaintiff was prevented from visiting Defendant's
21 brick-and-mortar location and picking up home improvement products. Plaintiff was therefore
22 deprived of equal enjoyment of Defendant's brick-and-mortar location.

23 55. Since as early as November 12, 2024, November 21, 2024, and until the current
24 date, during Plaintiff's separate visits to the Website, Plaintiff encountered multiple access
25 barriers which denied Plaintiff full and equal access to the facilities, goods, and services
26 offered to the public and made available to the public on the Website.

27 56. Due to the widespread access barriers Plaintiff encountered on the Website,
28 Plaintiff has been deterred, on a regular basis, from accessing the Website. Similarly, the

1 access barriers Plaintiff encountered on the Website have deterred Plaintiff from visiting
2 Defendant's brick-and-mortar locations.

3 57. If the Website were equally accessible to all, Plaintiff could independently
4 navigate the Website as sighted individuals do.

5 58. Having attempted to use the Website, Plaintiff has actual knowledge of the
6 access barriers that make these services inaccessible and independently unusable by blind and
7 visually-impaired people.

8 59. There are readily available, well established guidelines, available to Defendant
9 on the Internet, for designing, constructing, and maintaining websites to be accessible to blind
10 and visually-impaired persons. Other large business entities have used these guidelines, or
11 have otherwise been able, to make their websites accessible, including but not limited to:
12 adding Alt-text to graphics and ensuring that all functions can be performed using a keyboard.
13 In addition, incorporating these basic changes and adding certain elements to Defendant's
14 Website would not fundamentally alter the nature of Defendant's business nor would it result
15 in an undue burden to Defendant. Because maintaining and providing a website where all
16 functions can be performed using a keyboard would provide full, independent, and equal
17 access to all consumers to the Website, Plaintiff alleges that Defendant has engaged in acts of
18 discrimination including, but not limited to the following policies or practices:

- 19 a. Construction and maintenance of a website that is inaccessible to
20 visually-impaired individuals, including Plaintiff;
- 21 b. Failure to construct and maintain a website that is sufficiently intuitive
22 so as to be equally accessible to visually-impaired individuals, including
23 Plaintiff; and,
- 24 c. Failure to take actions to correct these access barriers in the face of
25 substantial harm and discrimination to blind and visually-impaired
26 consumers, such as Plaintiff, as a member of a protected class.

27 60. Although Defendant may currently have centralized policies for maintenance
28 and operation of the Website, Defendant lacks a plan and policy reasonably calculated to make

1 its website fully and equally accessible to, and independently usable by, blind and other
2 visually-impaired consumers, including Plaintiff.

3 61. Without injunctive relief, Plaintiff and other visually-impaired consumers will
4 continue to be unable to independently use Defendant's Website in violation of their rights.

5 62. Defendants continue to operate the Website while providing insufficient full
6 and equal access by legally blind persons, including Plaintiff and other persons with visual
7 impairments, and will continue to do so and thereby deny full and equal access to Plaintiff and
8 other legally blind persons until this Court orders appropriate injunctive relief compelling
9 compliance with the ADA.

10 **FIRST CAUSE OF ACTION**

11 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

12 **42 U.S.C. SECTION 12101, ET SEQ.**

13 63. Plaintiff re-pleads and incorporates by reference, as if fully set forth again
14 herein, the allegations contained in all prior paragraphs of this complaint. ACE HARDWARE
15 CORPORATION is a public accommodation with the definition of Title III of the ADA, 42
16 USC § 12181.

17 64. The Website provided by the Defendant is a service, privilege or advantage and
18 extension of ACE HARDWARE CORPORATION's physical presence and terrestrial services.

19 65. When a business provides services such as a website, it must provide an
20 accessible website.

21 66. Here, an accessible website has not been provided. A failure to provide an
22 accessible website is unlawful discrimination against persons with disabilities.

23 67. ACE HARDWARE CORPORATION's failure to ensure that the accessible
24 facilities were available and ready to be used by the plaintiff is a violation of the law.

25 68. Pursuant to 42 U.S.C. § 12188 and the remedies, procedures and rights set forth
26 and incorporated therein, Plaintiff requests relief as set forth below.

27 ////
28 ////

SECOND CAUSE OF ACTION

VIOLATION OF THE UNRUH CIVIL RIGHTS ACT,

CAL. CIV. CODE § 51 ET SEQ.

(By Plaintiff Against All Defendants)

69. Plaintiff re-alleges and incorporates by reference all paragraphs alleged above and each and every other paragraph in this Complaint necessary or helpful to state this cause of action as though fully set forth herein.

70. California Civil Code § 51 *et seq.* guarantees equal access for people with disabilities to the accommodations, advantages, facilities, privileges, and services of all business establishments of any kind whatsoever. Defendant is systematically violating the UCRA, Civil Code § 51 *et seq.*

71. Defendant's brick-and-mortar locations are "business establishments" within the meaning of the Civil Code § 51 *et seq.* Defendant generates revenue through its Website. Defendant's Website is a service provided by Defendant that is inaccessible to patrons who are blind or visually-impaired like Plaintiff. This inaccessibility denies blind and visually-impaired patrons full and equal access to the facilities, goods, and services that Defendant makes available to the non-disabled public, including the service of the Website itself. Defendant is violating the UCRA, Civil Code § 51 *et seq.*, by denying visually-impaired customers the goods and services provided on its Website. These violations are ongoing.

72. Defendants' actions constitute intentional discrimination against Plaintiff on the basis of a disability, in violation of the UCRA, Civil Code § 51 *et seq.*, because of the following: Defendant has constructed a website that is inaccessible to Plaintiff; Defendant maintains the Website in this inaccessible format; and, Defendant has failed to take action to correct and remove these barriers that cause discrimination to persons with Plaintiff's disability.

73. Defendant is also violating the UCRA, Civil Code § 51 *et seq.* because the conduct alleged herein violates various provisions of the Americans with Disabilities Act, 42 U.S.C. § 12181 *et seq.* as amended by the ADA Amendments Act of 2008 (P.L. 110-325), as

1 set forth above. Section 51(f) of the Civil Code provides that a violation of the right of any
2 individual under the ADA also constitutes a violation of the UCRA.

3 74. The actions of Defendant violate UCRA, Civil Code § 51 *et seq.*, and Plaintiff
4 is therefore entitled to injunctive relief remedying the discrimination. Plaintiff expressly limits
5 the cost of injunctive relief sought to \$50,000 or less.

6 75. Plaintiff is entitled to statutory minimum damages pursuant to Civil Code § 52
7 for each and every offense; however, Plaintiff hereby expressly limits the amount of money
8 such that the total amount Plaintiff seeks to for each and every offense shall not exceed
9 \$24,999.00.

10 76. Plaintiff is also entitled to reasonable attorneys' fees and costs.

11 **PRAYER**

12 **WHEREFORE, Plaintiff prays for judgment against Defendant, as follows:**

13 1. A Declaratory Judgment that at the commencement of this action Defendant
14 owns, maintains, and/or operates its Website in a manner which discriminates against the
15 blind, fails to provide access to blind or visually-impaired individuals, and that Defendant took
16 no action that was reasonably calculated to ensure that its Website is fully accessible to, and
17 independently usable by blind and visually-impaired individuals in violation of the ADA and
18 the UCRA;

19 2. Preliminary and permanent injunctive relief as permitted by the ADA (42 U.S.C
20 § 12181); however, Plaintiff hereby expressly limits the injunctive relief to require that
21 Defendant expend no more than \$50,000 thereon;

22 3. Plaintiff seeks no relief related to any architectural barriers to access in this
23 Complaint and expressly limits all claims to injunctive relief to modifications of Defendant's
24 policies and procedures related to the Website;

25 4. An award of statutory minimum statutory damages of not less than \$4,000 per
26 violation pursuant to § 52(a) of the California Civil Code; Note: Plaintiff is not invoking
27 California Civil Code § 55 and is not seeking injunctive relief under the Disabled Persons
28 Act or the Unruh Civil Rights Act at all.

5. As an additional violation, minimum statutory damages of not less than \$4,000.00 for deterrence; and

6. For reasonable attorneys' fees, litigation expenses, and costs of suit pursuant to 42 U.S.C. § 12205 and Civil Code Section 52.

DEMAND FOR JURY TRIAL

Plaintiff hereby respectfully requests a trial by jury on all appropriate issues raised in this Complaint.

Dated: January 20, 2025

MANNING LAW, APC

By: Joseph R. Manning Jr., Esq.

Joseph R. Manning Jr., Esq.

Attorney for Plaintiff

COMPLAINT

ADVISORY NOTICE TO DEFENDANT

YOU MAY BE ENTITLED TO ASK FOR A COURT STAY (AN ORDER TEMPORARILY STOPPING ANY LAWSUIT) AND EARLY EVALUATION CONFERENCE IN THIS LAWSUIT AND MAY BE ASSESSED REDUCED STATUTORY DAMAGES IF YOU MEET CERTAIN CONDITIONS.

If the construction-related accessibility claim pertains to a site that has a Certified Access Specialist (CASp) inspection report for that site, or to a site where new construction or improvement was approved after January 1, 2008, by the local building permit and inspection process, you may make an immediate request for a court stay and early evaluation conference in the construction-related accessibility claim by filing the attached application form with the court. You may be entitled to the court stay and early evaluation conference regarding the accessibility claim only if ALL of the statements in the application form applicable to you are true.

FURTHER, if you are a defendant described above (with a CASp inspection report or with new construction after January 1, 2008), and, to the best of your knowledge, there have been no modifications or alterations completed or commenced since the CASp report or building department approval of the new construction or improvement that impacted compliance with construction-related accessibility standards with respect to the plaintiff's claim, your liability for minimum statutory damages may be reduced to \$1,000 for each offense, unless the violation was intentional, and if all construction-related accessibility violations giving rise to the claim are corrected within 60 days of being served with this complaint.

ALSO, if your business has been served with a complaint filed by a high-frequency litigant, as defined in subdivision (b) of Section 425.55 of the Code of Civil Procedure, asserting a construction-related accessibility claim, including, but not limited to, a claim brought under Section 51, 54, 54.1, or 55 of the Civil Code, you may also be entitled to a court stay and an early evaluation conference. If you choose to request a stay and early evaluation conference, you may also request to meet in person with the plaintiff and counsel for both parties, as well as experts if the parties so elect, at the subject premises no later than 30 days after issuance of the court order to jointly inspect the portions of the subject premises and review any conditions that are claimed to constitute a violation of a construction-related accessibility standard.

IN ADDITION, if your business is a small business that, over the previous three years, or the existence of the business if less than three years, employs 25 or fewer employees on average over that time period and meets specified gross receipts criteria, you may also be entitled to the court stay and early evaluation conference and your minimum statutory damages for each claim may be reduced to \$2,000 for each offense, unless the violation was intentional, and if all the alleged construction-related accessibility violations are corrected within 30 days of being served with the complaint.

If you plan to correct the violations giving rise to the claim, you should take pictures and measurements or similar action to document the condition of the

physical barrier asserted to be the basis for a violation before undertaking any corrective action in case a court needs to see the condition of a barrier before it was corrected.

The court will schedule the conference to be held within 70 days after you file the attached application form.

The court will also issue an immediate stay of the proceedings unless the plaintiff has obtained a temporary restraining order in the construction-related accessibility claim. You may obtain a copy of the application form, filing instructions, and additional information about the stay and early evaluation conference through the Judicial Council Internet Web site at www.courts.ca.gov/selfhelp-start.htm.

You may file the application after you are served with a summons and complaint, but no later than your first court pleading or appearance in this case, which is due within 30 days after you receive the summons and complaint. If you do not file the application, you will still need to file your reply to the lawsuit within 30 days after you receive the summons and complaint to contest it. You may obtain more information about how to represent yourself and how to file a reply without hiring an attorney at www.courts.ca.gov/selfhelp-start.htm.

You may file the application without the assistance of an attorney, but it may be in your best interest to immediately seek the assistance of an attorney experienced in disability access laws when you receive a summons and complaint. You may make an offer to settle the case, and it may be in your interest to put that offer in writing so that it may be considered under Section 55.55 of the Civil Code.

STATE LAW REQUIRES THAT YOU GET THIS IMPORTANT ADVISORY INFORMATION FOR BUILDING OWNERS AND TENANTS

This information is available in English, Spanish, Chinese, Vietnamese, and Korean through the Judicial Council of California. People with visual impairments can get assistance in viewing this form through the judicial branch website, at www.courts.ca.gov.

California law requires that you receive this information because the demand letter or court complaint you received with this document claims that your building or property does not comply with one or more existing construction-related accessibility laws or regulations protecting the civil rights of people with disabilities to access public places.

YOU HAVE IMPORTANT LEGAL OBLIGATIONS. Compliance with disability access laws is a serious and significant responsibility that applies to all California building owners and tenants with buildings open for business to the public. You may obtain information about your legal obligations and how to comply with disability access laws through the Division of the State Architect, at www.dgs.ca.gov/dsa. Information is also available from the California Commission on Disability Access at www.ccda.ca.gov/guide.htm.

YOU HAVE IMPORTANT LEGAL RIGHTS. The allegations made in the accompanying demand letter or court complaint do not mean that you are required to pay any money unless and until a court finds you liable. Moreover, RECEIPT OF A DEMAND LETTER OR COURT COMPLAINT AND THIS ADVISORY DOES NOT NECESSARILY MEAN YOU WILL BE FOUND LIABLE FOR ANYTHING. You will have the right if you are later sued to fully present an explanation of why you believe you have not in fact violated disability access laws or have corrected the violation or violations giving rise to the claim.

You have the right to seek assistance or advice about this demand letter or court complaint from any person of your choice. If you have insurance, you may also wish to contact your insurance provider. Your best interest may be served by seeking legal advice or representation from an attorney, but you may also represent yourself and file the necessary court papers to protect your interests if you are served with a court complaint. If you have hired an attorney to represent you, you should immediately notify your attorney.

If a court complaint has been served on you, you will get a separate advisory notice with the complaint advising you of special options and procedures available to you under certain conditions.

ADDITIONAL THINGS YOU SHOULD KNOW: ATTORNEY MISCONDUCT. Except for limited circumstances, state law generally requires that a prelitigation demand letter from an attorney **MAY NOT MAKE A REQUEST OR DEMAND FOR MONEY OR AN OFFER OR AGREEMENT TO ACCEPT MONEY**. Moreover, a demand letter from an attorney **MUST INCLUDE THE ATTORNEY'S STATE BAR LICENSE NUMBER**.

If you believe the attorney who provided you with this notice and prelitigation demand letter is not complying with state law, you may send a copy of the demand letter you received from the attorney to the State Bar of California by facsimile transmission to 1-415-538-2171, or by mail to the State Bar of California, 180 Howard Street, San Francisco, CA 94105, Attention: Professional Competence.

STATE LAW REQUIRES THAT YOU GET THIS IMPORTANT ADVISORY INFORMATION FOR BUILDING OWNERS AND TENANTS

REDUCING YOUR DAMAGES. If you are a small business owner and correct all of the construction-related violations that are the basis of the complaint against you within 30 days of being served with the complaint, you may qualify for reduced damages. You may wish to consult an attorney to obtain legal advice. You may also wish to contact the California Commission on Disability Access for additional information about the rights and obligations of business owners.

COMMERCIAL TENANT. If you are a commercial tenant, you may not be responsible for ensuring that some or all portions of the premises you lease for your business, including common areas such as parking lots, are accessible to the public because those areas may be the responsibility of your landlord. You may want to refer to your lease agreement and consult with an attorney or contact your landlord, to determine if your landlord is responsible for maintaining and improving some or all of the areas you lease.

ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NO.:	FOR COURT USE ONLY
NAME:			
FIRM NAME:			
STREET ADDRESS:			
CITY:		STATE:	ZIP CODE:
TELEPHONE NO.:		FAX NO.:	
E-MAIL ADDRESS:			
ATTORNEY FOR (name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF			
STREET ADDRESS:			
MAILING ADDRESS:			
CITY AND ZIP CODE:			
BRANCH NAME:			
PLAINTIFF:			
DEFENDANT:			
DEFENDANT'S APPLICATION PURSUANT TO CIVIL CODE SECTION 55.54 FOR <input type="checkbox"/> STAY AND EARLY EVALUATION CONFERENCE <input type="checkbox"/> JOINT INSPECTION			CASE NUMBER:

(Information about this application and filing instructions may be obtained at www.courts.ca.gov/selfhelp.htm.)

1. Defendant (name): requests a stay of proceedings and early evaluation conference pursuant to Civil Code section 55.54.
2. The complaint in this case alleges a construction-related accessibility claim as defined under Civil Code section 55.52(a)(1).
3. The claim concerns a site that meets one of the following sets of requirements *(All items in one of a, b, c, or d must be checked for the court to order a stay and early evaluation conference. Check a box if the statement is true.)*
 - a. **CASp-Inspected Site**
 - (1) Site has been inspected by a Certified Access Specialist (CASp) and determined to be CASp inspected or CASp determination pending, and if CASp inspected, there have been no modifications completed or commenced since the date of inspection that may impact compliance with construction-related accessibility standards to the best of defendant's knowledge; and
 - (2) An inspection report by a Certified Access Specialist (CASp) relating to the site has been issued.
 - b. **New Construction**
 - (1) Site has had new construction or improvements on or after January 1, 2008, approved pursuant to the local building permit and inspection process;
 - (2) To the best of defendant's knowledge, there have been no modifications or alterations completed or commenced since that approval that impacted compliance with construction-related accessibility standards with respect to the plaintiff's claim; and
 - (3) All violations have been corrected, or will be corrected within 60 days of defendant's being served with the complaint.
 - c. **Small Business**
 - (1) Site is owned or occupied by a defendant that is a small business that has employed an average of 25 or fewer employees over the past three years and meets the gross receipts eligibility criteria provided in Civil Code section 55.56(2)(f);
 - (2) All violations have been corrected, or will be corrected within 30 days of being served with the complaint; and
 - (3) Evidence showing that all violations have been corrected (check one) is attached will be filed with the court within 10 days of the court order setting an early evaluation conference.
4. I am filing the following with the court along with this application: *(The documents should be filed separately attached to a Confidential Cover Sheet and Declaration (form DAL-006).)*
 - Proof of the number of defendant's employees as shown by wage reports forms filed with the Employment Development Department over the past three years or for existence of the business if less than three years; and
 - Proof of defendant's average gross receipts as shown by federal or state tax documents for the three years before this application or for existence of the business if less than three years.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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3. d. **Case Filed by High-Frequency Litigant**

- (1) Site is owned or occupied by a defendant that is a business.
- (2) The complaint was filed by, or on behalf of, a "high-frequency litigant," as defined in Code of Civil Procedure section 425.55(b), asserting a construction-related accessibility claim including, but not limited to, a claim brought under Civil Code section 51, 54, 54.1, or 55.
- (3) The complaint includes a statement that it was filed by or on behalf of a high-frequency litigant, or a statement in the caption that "action subject to the supplemental fee in Government Code section 70616.5."

4. Defendant requests that the court:

- a. Stay the proceedings relating to the construction-related accessibility claim.
- b. Schedule an early evaluation conference.
- c. Order defendant to:
 - (1) File a confidential copy of the Certified Access Specialist (CASp) report with the court and serve a copy of the report on the plaintiff at least 15 days before the date of the early evaluation conference, which shall be kept confidential as set forth in Civil Code section 55.54(d)(4); or
 - (2) File with the court and serve on plaintiff evidence showing correction of all violations within 10 days of completion of the correction or, if seeking relief as a small business, within 10 days after issuance of a court order granting a stay.
- d. Order plaintiff to file with the court and serve on defendants the statement required by Civil Code section 55.54(d)(6) at least 15 days before the date of the early evaluation conference.
- e. Order plaintiff and plaintiff's counsel, if any, to meet in person with defendant within 30 days, at the site that is the subject of this action, for a joint inspection to review any issues that plaintiff claims are a violation of construction-related accessibility standards.

Date:

(TYPE OR PRINT NAME OF DECLARANT)

(SIGNATURE OF DECLARANT)

DECLARATION OF DEFENDANT

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF DECLARANT)

(SIGNATURE OF DECLARANT)